APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,451	01/30/2001	Farrukh S. Najmi	SUN1P817	3454

22434 7590 03/09/2006	EXAMINER
BEYER WEAVER & THOMAS LLP P.O. BOX 70250 OAKLAND, CA 94612-0250	ALPERT, JAMES M

ART UNIT	PAPER NUMBER
3624	

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/774,451	NAJMI, FARRUKH S.
	Examiner	Art Unit	
	James Alpert	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _19 January 2006_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-33_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-33_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

The following communication is in response to Applicant's amendment filed on 12/09/2005 as well as Applicant's Request for Continued Examination (RCE) filed 01/19/2006.

Status of Claims

Claims 1,3,12,16,22 are currently amended. Claims 2,23-33 are previously presented. Claims 4-11,13-15,17-21 are as originally submitted. Claims 1-33 are, therefore, currently pending.

Response to Arguments

Applicant's arguments filed 12/09/2005 have been fully considered but they are not persuasive as discussed below. Therefore, Claims 1-33 rejected as stated in the previous office action, and Applicant's request for allowance is respectfully denied.

Claim Rejections - 35 USC § 103

The text of 35 U.S.C. §103, which is not included in this action, can be found in a prior Office action. Claims 1-33 are rejected as being unpatentable over Mandler, U.S. Patent #5732400 in view of Bhatt el al, U.S. Patent #6405191.

Applicant concedes that the above-cited references anticipate a publish-and-subscribe system for distributing RFQ's utilizing filters for discriminating against certain potential message recipients based on preferences provided by the user. The examiner reaches this conclusion by observing that Applicant argues simply that there are additional features that are novel over these primary functions. Before addressing the pending substantive issues, Applicant is reminded that claims must be given the

broadest reasonable interpretation. See In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d

1664, 1667 (Fed. Cir. 2000). With this fact in mind, the Examiner is at a loss to

understand how Applicant's newly added limitations present additional novel or non-

obvious features.

Examiner's amended independent Claim 1 recites:

subscribing to a service interface by the certain one of the plurality of e-business entities operating on a plurality of enterprise communication system protocols;

publishing the message to the broker by the first entity;

determining the selected ones of the plurality of e-business entities to receive the message by the broker; and

multicasting the message to the selected ones of the plurality of e-business entities based upon the determining by the broker, such that the first entity is not required to know any one of the plurality of enterprise computer system protocols.

The Examiner observes that these newly added limitations are inherent to the

method presented by a combination of the Mandler and Bhatt references. Specifically,

the first newly added language ("operating on ...") could easily be interpreted to mean

that the e-business entities are functioning with different operating systems, or modem

software/hardware. This would not present any additional feature not found already in

Mandler/Bhatt. The communication technology available as of January 30, 2001

(Applicant's priority date) was sufficiently advanced to accommodate multiple operating

systems or other minor variations in hardware/software from system to system.

The second newly added language ("such that the first entity...") also does not

affect the teachings of the combined references. Specifically, the combined references

would initially require that the first entity present a message (typically, an RFQ) to a

broker-intermediary. From that point forward, the broker-intermediary is responsible to distribute out the message, whether in the same format, or altered, to the various subscribers who may be interested in supplying responses, subject to the filtering involved in the system. The first entity does not need to know the protocols of the subscriber computer systems because the broker is the party that interfaces with the subscribers. As such, the newly added language is inherent to the method of the combined references, in that the first entity never interfaces directly with the subscribers. Thus, Applicant's claims remain rejected substantially as presented previously, described in more detail herein.

Specifically, with regard to Claims 1,16,22 Mandler teaches a buyer/seller/broker intermediary system & method wherein buyers place Request for Quotes (FRQ) with a broker who then forwards the information to a plurality of sellers for consideration and response. See (Col. 3, lines 48-58). Mandler does not expressly teach the publish/subscribe system & method described by the Applicant, however this an old and well-known process exemplified by Bhatt. Bhatt discloses the following:

subscribing to a service interface by the certain one of the plurality of e-business entities operating on a plurality of enterprise communication system protocols;
(Col. 5, lines 48-52)

publishing the message to the broker by the first entity;
(Col. 2, line 64 – Col. 3, line 5)

determining the selected ones of the plurality of e-business entities to receive the message by the broker; and
(Col. 3, line 66 – Col. 4, line 3)

publishing the message to the selected ones of the plurality of entities based upon the determining. (Col. 11, lines 56-66)

multicasting the message to the selected ones of the plurality of e-business entities based upon the determining by the broker, such that the first entity is not required to know any one of the plurality of enterprise computer system protocols.
(Col. 11, lines 56-66)

Also, for each of the four (4) limitations above, see generally (Bhatt, Claims 1-2).

It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to combine the teachings of Mandler, relating to a broker/intermediary between buyers and sellers, with the teachings of Bhat relating to a publish/subscribe method. The motivation for such a combination can be found in both references. In Bhatt, the use of the publish/subscribe system is contemplated for the electronic commerce arts at (Bhatt, Col. 1, lines 24-28), which describes how the nature of business events triggers the system. More importantly, however, Mandler suggest using improved computer technologies at (Col.2, line 65 – Col. 3, line 29) to reduce distribution cost, expand markets for sellers, and allowing buyers to price shop among sellers via electronic commerce for optimal price and selection of goods.

With regard to Claims 2,21,23 in terms of initial limitation, as well as the last limitation, comprising:

setting an expiration time for the published message after receiving the published message from the first entity;

purging the message when the expiration period lapses.

the Examiner observes that an expiration time is an inherent aspect of publish/subscribe system and method. Bhatt and Mandler do not expressly teach this limitation, however it would be considered part of the teachings of Mandler/Bhatt combination. Bhatt does disclose the remaining two limitations:

retaining the published message;
(Col. 11, lines 62-66)

determining if an appropriate one of the plurality of entities has subsequently subscribed to the service interface so as to be identified to receive the message;
(Col. 12, lines 2-8)

Again, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to combine the teachings of Mandler, relating to a broker/intermediary between buyers and sellers, with the teachings of Bhat relating to sorting out new subscriber/sellers. The motivation for such a combination can be found in both references. In Bhatt, the use of the publish/subscribe system is contemplated for the electronic commerce arts at (Bhatt, Col. 1, lines 24-28), which describes how the nature of business events triggers the system. More importantly, however, Mandler suggest using improved computer technologies at (Col.2, line 65 – Col. 3, line 29) to reduce distribution cost, expand markets for sellers, and allowing buyers to price shop among sellers via electronic commerce for optimal price and selection of goods.

With regard to Claims 3,17,24 Mandler teaches the system & method comprising:

receiving the message through a multicast protocol at each of the selected ones of the plurality of entities;   (Col. 4, lines 25-29)

reviewing the message at each of the selected ones of the plurality of entities;
(Col. 4, lines 29-31, which implicitly contains a review of the RFQ) and

determining if a response to the message is to be generated at each of the selected ones of the plurality of e-business entities based upon the reviewing.
(Col. 4, lines 29-31)

With regard to Claims 4,18,25 Mandler teaches the system & method comprising:

publishing the response to the service interface based upon the determining;
(Col. 4, lines 29-31)

publishing the response to the broker by the service interface; and
(Col. 4, lines 29-31)

publishing the response to the first entity by the broker.
(Col. 4, lines 29-31)

It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to combine the teachings of Bhat relating to a publish/subscribe method with the teachings of Mandler providing for the review of incoming messages and the response thereto. The motivation for such a combination can be found in both references. In Bhatt, the use of the publish/subscribe system is contemplated for the electronic commerce arts at (Bhatt, Col. 1, lines 24-28), which describes how the nature of business events triggers the system. As well, Mandler suggest using improved computer technologies at (Mandler, Col.2, line 65 – Col. 3, line 12). An obvious business application is to publish responses to the RFQ's so as to consummate a transaction.

With regard to Claim 5,26 Mandler nor Bhat teach the method wherein:

the responding ones of the plurality of entities are each anonymous to the first entity.

The examiner takes Official Notice that anonymous publishing is old and well known in the art, and is a common occurrence in a publish/subscribe scenario. Therefore, it would have been obvious to one of ordinary skill in the art modify the teachings of Mandler to expressly include anonymous publishing. The motivation for

such a combination is to expand the number of applications available to users of the system.

> MPEP § 2144.03(C) states, in respect to an Examiner's use of Official Notice:

> To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b).

The same section continues:

> If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate.

Applicant has not traversed the noticed fact in Claims 5 and 26. As such, the Examiner is now obligated to consider as admitted prior art, the elements of Claims 5,26.

With regard to Claim 6, Mandler does not teaches the method comprising: publishing the response directly to the first entity based upon the determining.

However, once the seller knows the identity of the buyer, an inherent part of the system is that the seller can then either continue to process the RFQ using the broker, OR if so inclined, initiate communication with the buyer directly. Mandler thus anticipates this claim as well.

With regard to Claim 7,27 Mandler specifically emphasizes that buyers and sellers need not have previously conducted business together. Even so, there is nothing in the disclosure that indicates the buyer or seller can not know each other. Thus inherent to the system is the idea that in some cases, the responding ones of the plurality of entities are each known to the first entity.

With regard to Claim 8, Mandler teaches the method comprising:

publishing the response to the service interface based upon the determining;
(Col. 4, lines 29-31)

publishing the response to the broker by the service interface; and
(Col. 4, lines 29-31)

With regard to Claim 9, Mandler specifically emphasizes that buyers and sellers

need not have previously conducted business together. Even so, there is nothing in the

disclosure that indicates the buyer or seller <u>can not</u> know each other. Thus inherent to

the system is the idea that in some cases, the responding ones of the plurality of entities

are each known to the first entity.

With regard to Claims 10,19,28 Mandler teaches a system and method

wherein:

the message is a request for a quote (RFQ).
(Col. 7, lines 21-27)

With regard to Claims 11,20,29 Mandler teaches a system and method

wherein:

the response is a quote.
(Col. 7, lines 39-40)

With regard to Claim 12,30 Mandler teaches a method wherein:

the first entity is included in a first enterprise computer system and wherein at least one
of the responding entities is included in a second enterprise computing system.
(Col. 6, lines 22-40)

With regard to Claim 13,31 Mandler teaches a method wherein:

the first and the second enterprise computing systems are different enterprise
computing systems. (Col. 6, lines 40-43)

With regard to Claim 14,32 Mandler does not expressly teaches a method

wherein:

the first enterprise computing systems is an ebXML based enterprise computing
system.

However, the examiner observes that unless the use of a specific operating

system or programming language is *critical or uniquely required* for implementation of

the claimed method, very little patentable weight is given to claims identifying one

operating system or programming language.

Even so, the examiner observes that ebXML is more or less a framework for

developing a business transaction vocabulary that is based on XML. Bhatt teaches

using XML in its operation of a publish/subscribe system at (Col. 3, lines 50-57). As

such, it would have been obvious to one of ordinary skill in the art at the time Applicant's

invention was made to combine the teachings of Mandler, relating to a

broker/intermediary between buyers and sellers, with the teachings of Bhat relating to a

publish/subscribe method based on XML. The motivation for such a combination is

found in Mandler at (Col.2, line 65 – Col. 3, line 29) which suggests using improved

computer technologies to reduce distribution cost, expand markets for sellers, and allow

buyers to price shop among sellers via electronic commerce for optimal price and

selection of goods.

With regard to Claim 15,33 Mandler does not expressly teach the method

wherein:

the second enterprise computing systems is an ebXML based enterprise computing
system.

However, the examiner observes that unless the use of a specific operating system or programming language is *critical or uniquely required* for implementation of the claimed method, very little patentable weight is given to claims identifying one operating system or programming language.

Even so, the examiner observes that ebXML is more or less a framework for developing a business transaction vocabulary that is based on XML. Bhatt teaches using XML in its operation of a publish/subscribe system at (Col. 3, lines 50-57). As such, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to combine the teachings of Mandler, relating to a broker/intermediary between buyers and sellers, with the teachings of Bhat relating to a publish/subscribe method based on XML. The motivation for such a combination is found in Mandler at (Col.2, line 65 – Col. 3, line 29) which suggests using improved computer technologies to reduce distribution cost, expand markets for sellers, and allow buyers to price shop among sellers via electronic commerce for optimal price and selection of goods.

Conclusion

THIS ACTION IS NON-FINAL. Any inquiry concerning this communication or earlier communications from the examiner   should   be   directed to James Alpert whose telephone number is (571) 272-6738. The examiner can normally be reached on M-F 9:30-6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone

number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

James M. Alpert
March 6, 2006

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